

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2000-207-W/S - ORDER NO. 2001-536

JUNE 4, 2001

IN RE: Application of Carolina Water Service, Inc.	)	ORDER APPROVING
for Approval of an Increase in its Rates for	)	WITHDRAWAL OF
Water for all its Service Areas and Sewer	)	PETITION TO
Service for certain of its Service Areas.	)	INTERVENE
	)	
	)	
	)	

This matter comes before the Public Service Commission of South Carolina (Commission) by way of a request from the South Carolina Department of Health and Environmental Control (DHEC) to withdraw its Petition to Intervene in this docket. On February 23, 2001, Carolina Water Service, Inc. (CWS) filed an Application with the Commission for adjustment of its rates and charges for the provision of water and sewer services. Thereafter, on May 4, 2001, DHEC filed a Petition to Intervene with the Commission. In its Petition to Intervene, DHEC stated that it is an agency of the State with the statutory authority to implement the Pollution Control Act and regulations promulgated thereunder, and authorized pursuant to S.C. Code Ann. §48-1-50 to maintain and institute legal actions. Additionally, DHEC's Petition to Intervene states that although DHEC takes no position regarding so much of CWS's tariff which is currently the subject of this proceeding, it may have a position if the Commission reconsiders and expands the scope of the present proceeding. Therefore, in that capacity, DHEC sought to intervene as a formal party of record in the instant docket.

On May 11, 2001, CWS filed its Answer in Opposition to DHEC's Petition to Intervene with the Commission. In its Answer, CWS asserts that DHEC's Petition to Intervene fails to satisfy any of the three requirements for a petition to intervene under 26 S.C. Code Ann. Regs. 103-836(A)(3). First, DHEC's Petition to Intervene does not contain a statement of facts from which DHEC's alleged right or interest can be determined. Next, CWS alleges that DHEC has failed to state any grounds for its proposed intervention as required in 26 S.C. Code Ann. Regs. 103-836(A)(3)(b); DHEC has not provided an explanation of how its right or interest can or will be affected. Third, CWS asserts that DHEC's Petition to Intervene does not satisfy the requirements of 26 S.C. Code Ann. Regs. 103-836(a)(3)(c) because the Petition does not set forth any position on the matter before the Commission. Finally, CWS alleges that DHEC lacks standing to participate in proceedings before the Commission for approval of rate adjustments pursuant to S.C. Code Ann. §58-5-240 (Supp. 2000). CWS argues that DHEC is a creature of the legislature and it has only the powers given to it by the General Assembly. Moreover, CWS asserts that for purposes of implementing and enforcing the Pollution Control Act, DHEC has its own administrative procedures that it may pursue.

DHEC filed its Return to CWS's Answer in Opposition to the Petition to Intervene on May 24, 2001. In the Return, DHEC asserts that if the Commission grants the Consumer Advocate's Motion for Reconsideration and expands the scope of this docket, then DHEC intends to reallege its interest, derived from the Pollution Control Act, to insure that the purposes of the Waccamaw 208 Plan are protected. DHEC is in agreement with CWS that the current scope of Docket No. 2000-207-W/S does not raise

any issues which involve DHEC's interest; however, DHEC argues that an expanded scope of this docket may well involve DHEC's interests. DHEC also requested that the Commission not take any final action on CWS's Answer in Opposition to the Petition to Intervene until DHEC receives notice of the Commission's decision with regard to the Consumer Advocate's request for reconsideration.

On May 29, 2001, DHEC filed a letter with the Commission seeking leave to withdraw its Petition to Intervene until such time as the scope of this docket shall change. Additionally, in its letter dated May 29, 2001, DHEC admitted that at this time the scope of the hearing in the instant docket is limited to specific increases in CWS's allowable rates and charges. Moreover, DHEC stated that it takes no position on the rates and charges submitted to the Commission for review. However, DHEC maintained that if the scope of the instant proceeding changes to incorporate other aspects of CWS's tariff, DHEC may have an interest. Finally, DHEC stated that it has been assured by counsel for the Commission that DHEC will be notified if and when the scope of this docket is expanded. We have examined DHEC's request to withdraw its Petition to Intervene and we find the request reasonable. DHEC's request to withdraw its Petition to Intervene is hereby granted.

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IT IS THEREFORE ORDERED THAT:

1. The Department of Health and Environmental Control's request to withdraw its Petition to Intervene is hereby granted.

2. This Order shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)